

PT 01-20

Tax Type: Property Tax

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

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|---------------------------------------|---|-----------------------|---------------------------|
| SPECIALIZED TRAINING FOR ADULT |) | | |
| REHABILITATION, INC. |) | | |
| Applicant |) | A.H. Docket # | 00-PT-0015 |
| |) | Docket # | 99-39-37 |
| v. |) | Parcel Index # | 14-04-329-011-0030 |
| |) | | 14-04-329-012-0040 |
| THE DEPARTMENT OF REVENUE |) | | |
| OF THE STATE OF ILLINOIS |) | | |

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. Gregory Veach, attorney at law, appeared on behalf of Specialized Training for Adult RehabiliTation, Inc.

Synopsis:

The hearing in this matter was held on August 21, 2000, at 2309 West Main Street, Marion, Illinois, to determine whether or not Jackson County Parcel Index Nos. 14-04-329-011-0030 and 14-04-329-012-0040 qualified for exemption from real estate taxation for all or part of the 1999-assessment year.

Ms. Cheryl Daugherty, business manager of Specialized Training for Adult RehabiliTation, Inc. (hereinafter referred to as the "Applicant" or "START") and Mr. Curtis Kohring, executive director of START were present and testified on behalf of START.

On June 20, 1997, START purchased the two parcels here in issue. These parcels are located on the North side of Manning Street directly across the street from START's work-training facility and a parking lot. One of the parcels in issue was improved with a vacant building that had previously partially burned. The other parcel was vacant. START acquired these parcels with the intention of either adapting the existing structure into a classroom building or razing the existing structure and building a classroom building.

The issues in this matter include: first, whether START owned these parcels during the 1999-assessment year; secondly, whether START is a charitable organization; and lastly whether START was in the process of adapting these parcels for charitable use during the 1999-assessment year.

Following the submission of all of the evidence and a review of the record, it is determined that START owned the parcels here in issue during all of the 1999-assessment year. It is also determined that START is a charitable organization. Finally, it is determined that START was in the process of adapting these parcels for charitable purposes during the 1999-assessment year.

It is therefore recommended that Jackson County Parcel Index Nos. 14-04-329-011-0030 and 14-04-329-012-0040 be exempt from real estate taxation for the 1999-assessment year.

Findings of Fact:

1. The jurisdiction and position of the Illinois Department of Revenue, (hereinafter referred to as the "Department") in this matter, namely that these parcels did not qualify for exemption from real estate taxation for the 1999-assessment year because they were not used for charitable purposes during that year, was established by the admission in evidence of Department's Exhibit Nos. 1 through 6B.

2. The correct Jackson County Parcel Index Nos. for the parcels here in issue are 14-04-329-011-0030 and 14-04-329-012-0040. One of the witnesses for START, Ms. Cheryl Daugherty testified that these were the correct parcel index numbers. These are the parcel index numbers shown on the Chicago Title Insurance Company commitment for title insurance

concerning these parcels. While some of the documents in evidence contain other parcel index numbers, I find that Jackson County Parcel Index Nos. 14-04-329-011-0030 and 14-04-329-012-0040 are the correct parcel index numbers for the parcels here in issue. (Tr. pp. 30 & 31, Appl. Ex. No. 12)

3. START acquired the parcels here in issue pursuant to a warranty deed dated June 20, 1997. (Dept. Ex. No. 2A)

4. START was incorporated on August 26, 1968, pursuant to the “General Not For Profit Corporation Act” of Illinois, and adopted the name of Jackson County Work Activity Center For The Mentally Retarded. The purposes of START include the following:

To establish, operate and maintain a work activity program to serve the mentally retarded, including training of the retarded for job placement, and other services that would contribute to the maximum job functioning of those served by the program, with the ultimate goal of fostering an adequate community adaptation for all participants. (Appl. Ex. No. 4)

5. The name was then changed to Jackson Community Workshop, Inc. On April 25, 1996, the name of the organization was changed from Jackson Community Workshop, Inc. to Specialized Training for Adult RehabiliTation, Inc. (Dept. Ex. No. 2B)

6. START provides residential services, day services, and work services to adults with developmental disabilities who reside in Jackson County. (Tr. p. 9)

7. Clients of START are charged room and board if they reside in a residential facility operated by START. They are charged a fee by START if they are provided transportation to or from work. They are not charged fees for the day educational programs or the work training programs. (Tr. p. 11)

8. Some of the clients of START receive Supplemental Security Income or possibly work income either from START’s work training programs or outside jobs which they may hold. START accepts clients who do not have any income and also waives or reduces its fees if clients do not have sufficient income to pay its fees. (Tr. p. 32)

9. The by-laws of START provide that no person shall be excluded from participation in its programs or be discriminated against in any way based on financial ability. (Tr. p. 31, Appl. Ex. 5)

10. The June 30, 1999, fiscal year audit of START indicates that the funds received by START include funds from the Illinois Department of Mental Health and Developmental Disabilities, the Illinois Department of Public Aid, the Illinois Department of Rehab. Services, the Jackson County 708 board, contributions, client payments, and contract revenue for services by START's clients. Jackson County assesses taxes on real estate to be used for mental health purposes within the county. The 708 board disburses these funds to various agencies that provide mental health services to residents of the county. START is one of the recipients of those funds. (Tr. p. 34, Appl. Ex. No. 6)

11. START acquired the parcels here in issue and the partially burned building located thereon on June 20, 1997. START began working with a general contractor to develop plans and figure the costs necessary to bring the partially burned building on these parcels up to the state fire marshal's requirements for use by persons with developmental disabilities. About December 1998 it was determined that it would not be cost effective to remodel the building on these parcels and use it as a classroom building. (Tr. p. 23)

12. During January 1999 START met with architects and asked them to develop plans for a classroom building that would be accessible for developmentally disabled adults. (Tr. 23 & 24, Appl. Ex. No. 10)

13. The demolition of the existing burned out building was put out for bids and a bid was accepted during March 1999. During June 1999 the demolition of the building began. The parcels here in issue were surveyed about this time. During August 1999 these parcels were finally cleared. (Tr. p. 25, Appl. Ex. No. 10)

14. During August 1999 the building plans were sent to the State Fire Marshal for approval. In about 30 days after several modifications, the plans were approved by the Fire Marshal. (Tr. p. 25)

15. The architects sent out the bid packets to construct a classroom building during September 1999. During October 1999 the bids were received and the bid of Morgan Construction was accepted. On December 3, 1999, the groundbreaking on the new building was held. The new classroom building was completed and START began to use it during June 2000. (Tr. pp. 25 & 26, Appl. Ex. No. 10)

16. The new classroom building on these parcels is a one-story building with no basement containing 5,030 square feet. (Tr. p. 34, Dept. Ex. No. 2)

17. This new building contains three classrooms, an activity room, a conference room, two offices, restrooms, and a small kitchen. (Tr. p. 35)

18. The two parcels here in issue are improved with the new 5,030 square foot building and five or six parking spaces. One of the vans owned by START occupies a parking space. The rest of the parking spaces are used by the staff working in the classroom building. (Tr. p. 29)

19. START has been determined to be exempt from federal income tax pursuant to Internal Revenue Code Section 501(c) 3. It has also been determined that START qualifies for exemption from the Illinois Retailers' Occupation Tax and related laws as a charitable organization. (Dept. Ex. 2H, Appl. Ex. 2)

20. I take Administrative Notice of the Department's decision in Docket No. 99-39-38 in which the Department determined that START is a charitable organization. (Tr. pp. 18 & 19, Appl. Ex. No. 9)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Concerning charitable organizations, 35 **ILCS** 200/15-65 provides in part as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) institutions of public charity;
- (b) beneficent and charitable organizations incorporated in any state of the United States

Concerning parking areas 35 **ILCS** 200/15-125 exempts certain property from taxation as follows:

Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, school, or religious or charitable institution which meets the qualifications for exemption, are exempt.

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956); Milward v. Paschen, 16 Ill.2d 302 (1959); and Cook County Collector v. National College of Education, 41 Ill.App.3d 633 (1st Dist. 1976). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944) and People ex rel. Lloyd v. University of Illinois, 357 Ill. 369 (1934). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967); Girl Scouts of DuPage County Council, Inc. v. Department of Revenue, 189 Ill.App.3d 858 (2nd Dist. 1989) and Board of Certified Safety Professionals v. Johnson, 112 Ill.2d 542 (1986). It is therefore very clear that the burden of proof is on the one seeking the exemption to establish that it is entitled to an exemption.

Based on the warranty deed submitted into evidence, I conclude that START owned the parcels here in issue during the entire 1999-assessment year.

In the case of Methodist Old Peoples Home v. Korzen, 39 Ill.2d 149 (1968), the Illinois Supreme Court laid down five guidelines to be used in determining whether or not an organization is charitable. Those five guidelines read as follows: (1) the benefits derived are for an indefinite number of persons; (2) the organization has no capital, capital stock, or shareholders, and does not profit from the enterprise; (3) funds are derived mainly from private and public charity, and are held in trust for the objects and purposes expressed in its charter; (4) charity is dispensed to all who need and apply for it; and (5) no obstacles are placed in the way of those seeking the benefits. Since START waives or reduces its fees in cases of need and has a by-law that states that no person shall be excluded from participation in its programs or be discriminated against in any way based on financial ability, I conclude that the benefits derived are for an indefinite number of persons, charity is dispensed to all who need and apply for it, and no obstacles are placed in the way of those seeking the benefits. Since START is organized under the General Not For Profit Corporation Act, I conclude that START has no capital, capital stock, or shareholders, and does not profit from the enterprise. I also conclude that START's funds are derived primarily from private and public charity, and are held in trust for the purposes expressed in its Articles of Incorporation. In addition, I take Administrative Notice of Docket No. 99-39-38 in which the Department determined that START qualified for exemption. Consequently I conclude that START is a charitable organization.

Beginning in January 1999 START met with architects and asked them to oversee the demolition of the existing burned out building and to develop plans to build a classroom building that would be accessible for developmentally disabled adults. START then proceeded to have the existing building demolished and to have a 5,030 square foot classroom building constructed on these parcels which was ready for occupancy and use during June 2000. Illinois Courts have held property to be exempt from taxation where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. Illinois Institute

of Technology v. Skinner, 49 Ill.2d 59 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924); In re Application of County Collector, 48 Ill.App.3d 572 (1st Dist. 1977); and Weslin Properties, Inc. v. Department of Revenue, 157 Ill.App.3d 580 (2nd Dist. 1987).

I therefore conclude that START during the entire 1999-assessment year was in the process of adapting the parcels here in issue for charitable use.

Concerning the five or six parking spaces located on these parcels, one is occupied by one of the vans owned by START and the rest are used by members of the START staff who work in the classroom building. Consequently these parking spaces meet the statutory requirements for exemption found in 35 **ILCS** 200/15-125.

I therefore recommend that Jackson County Parcel Index Nos. 14-04-329-011-0030 and 14-04-329-012-0040 be exempt from real estate taxation for the entire 1999-assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge
February 8, 2001